

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:08CV507

PAUL D. CARTY,

Plaintiff,

vs.

WESTPORT HOMES OF NORTH
CAROLINA, INC., WPNC
DEVELOPMENT, LLC, JOHN B.
SCHEUMANN, STEVEN M. DUNN, and
CHARLES D. SCHEUMANN,

Defendants.

ORDER

This matter is before the court upon the memorandum and recommendation of United States Magistrate David C. Keesler, filed May 27, 2010. The parties were advised that pursuant to 28 U.S.C. § 636(b)(1)(C), written objections to the memorandum and recommendation must be filed within 14 days after service of the memorandum. After securing an extension of time to file, Plaintiff timely filed an objection to the memorandum and recommendation on July 6, 2010, and Defendants submitted a response to the objections on July 20, 2010.

After an independent and thorough review of the magistrate's memorandum, Plaintiff's objections thereto, and a de novo review of the record, the court concludes that the recommendation to grant Defendants' motions to dismiss is correct and in accordance with law. Accordingly, the findings and conclusions of the magistrate are accepted and Defendants' motions to dismiss are GRANTED.

At oral argument, Plaintiff requested that he be allowed to amend his Complaint for a second time should the court find that he had failed to state claims upon which relief may be granted. It

appears that Judge Keesler did not address this oral motion. Accordingly, this court will deny Plaintiff's motion to amend, finding that any such amendment would be futile.

IT IS THEREFORE ORDERED that the memorandum and recommendation of the magistrate is hereby AFFIRMED.

Signed: August 24, 2010

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

